

ORDINANCE 2149

**AN ORDINANCE OF THE TOWN OF LOS GATOS
AMENDING THE TOWN CODE REGARDING:**

**1) REFERENCES TO PLANNING DIRECTOR; 2) REQUIREMENTS FOR
CERTIFICATES OF USE AND OCCUPANCY/SECOND DWELLING UNITS/APPEALS
FROM DECISIONS OF THE PLANNING DIRECTOR; 3) PARKING EXEMPTION
CLARIFICATION FOR HISTORIC DISTRICTS AND PARKING LOT AND
DIMENSION MODIFICATIONS TO MEET NATIONAL POLLUTION DISCHARGE
ELIMINATION SYSTEM REQUIREMENTS; 4) MINOR RESIDENTIAL
DEVELOPMENT APPLICATION PROCEDURES AND APPROVALS REQUIRED FOR
ARCHITECTURE AND SITE APPLICATION; 5) PROJECTIONS ALLOWED INTO
YARDS, CONVERT TOWN POLICIES INTO TOWN CODE, REQUIREMENTS
RELATING TO DETACHED ACCESSORY STRUCTURE EXEMPTIONS, AND
DETACHED GARAGE EXEMPTION; 6) TITLE CLARIFICATION AND HEIGHT
EXCEPTION FOR WIRELESS TELECOMMUNICATION FACILITIES;
7) SALVAGING/RECYCLING REQUIREMENTS FOR DEMOLITIONS; 8) APPEAL
WITHDRAWALS, NOTICING PROCEDURES FOR MINOR RESIDENTIAL
PROJECTS, AND CLARIFICATION OF APPEAL FEES; 9) CONDITIONAL USE
PERMIT REQUIREMENT FOR NEW OFFICE BUILDINGS AND FINDINGS FOR
DENIAL; 10) CONVERT TOWN POLICIES INTO TOWN CODE REQUIREMENTS
RELATING TO DEFINITIONS OF ATTIC/CELLAR/BASEMENT; 11) SPELLING AND
GRAMMAR CORRECTIONS.**

**THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS
FOLLOWS:**

SECTION I

Town Code Chapter 20 is amended to read as follows:

Sec. 20.10.020. References to Planning Director in the Code.

All references in this Code to "Planning Director" are intended to refer to the Director

of Community Development.

Town Code Chapter 29 is amended to read as follows:

Sec. 29.20.060. Certificate of use and occupancy.

A certificate of use and occupancy is required:

- (1) Before occupancy of any new building or commencement of any activity when architecture and site approval or a conditional use permit is required (excluding single family, two family or second dwelling units).

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- (3) Deleted.

Sec. 29.10.320. New second dwelling units.

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- (8) *Parking.* In addition to parking otherwise required for second units as set forth in section 29.10.150 of the Town Code, the number of off-street parking spaces required by this chapter for the primary unit shall be provided prior to the issuance of a building permit or final inspection for the new second dwelling unit. In addition to the number of spaces as set forth in this section, additional spaces may be required if the following findings are made:

- a. Additional parking is directly related to the use of the second unit.
- b. Additional parking is consistent with existing neighborhood standards applicable to existing dwellings.

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(12) Deleted.

(12) *Denial*. An application may be denied if it does not meet the design and development standards. An application may also be denied if the following findings are made:

- a. Acknowledgment of limiting the housing opportunities in the region.
- b. Adverse impacts on health, safety and/or welfare of the public.

Sec. 29.10.330. Elimination and/or demolition of existing second units.

In order to eliminate and/or demolish, without replacement, an approved second unit the deciding body shall make the finding that the proposed elimination and/or demolition, (without replacement), is consistent with the Town's Housing Element of the General Plan. In order to eliminate and/or demolish an existing second unit (whether or not it will be replaced), the deciding body must make the demolition findings pursuant to section 29.10.09030.

Sec. 29.10.335 Expansion of existing or nonconforming second dwelling units.

For the purposes of this section only, expansion of a second dwelling unit is defined as increasing the number of bedrooms or adding floor area in excess of thirty (30) square feet. Requests for expansion of any nonconforming second dwelling unit shall be subject to the same requirements as a new second dwelling unit. If the secondary dwelling unit(s) is located on a nonconforming lot, no expansion, as defined by this section, is permitted.

Sec. 29.20.255. Appeals from the decision by the Planning Director.

Any interested person may appeal to the Planning Commission from a decision of the Planning Director:

- (1) Determining an application for a horse permit, for an amateur horse event or animal permit, for a home occupation permit, for a tree removal permit, for a sign permit, or denying a certificate of use and occupancy on the ground that the use is not allowed in the zone.

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Section 29.10.150. Number of off-street spaces required.

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(h) *Exemptions.* Compliance with subsection (c)(1) is not required if the deciding body makes the following findings:

(1) If the site and/or structures on the site are subject to historic preservation pursuant to Division 3 of Article VIII of this Code and the Historic Preservation Committee determines that the enforcement of subsection (g) will impact the historic character of the site and/or structures on the site; or

(2) Deleted.

(2) The lot does not have adequate area to provide parking as required by subsection (c)(1). This finding is not required if subsection (h)(1) is made.

If the deciding body makes the findings set forth above, parking shall be provided to the maximum extent possible.

Sec 29.10.155. Development Standards

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(c) *Driveways.* Off-street parking lots and parking garages must be connected to streets or alleys by driveways which comply with the following requirements:

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- (2) Driveways which serve more than two (2) and not more than ten (10) parking spaces shall be at least ten (10) feet wide if they provide either ingress or egress only, and not less than eighteen (18) feet wide if they provide both ingress and egress. The Planning Director may authorize a reduction in width of two-way driveways for single family residential parcels with a secondary dwelling unit(s) and two family residential parcels if the Planning Director finds that conditions make the eighteen-foot requirement impractical.

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- (7) When a garage, with a sliding or overhead roll-up door, unenclosed parking space, or carport opens onto a street (excluding alleys) the length of the driveway shall not be less than eighteen (18) feet. The length of all other driveways shall not be less than 25 feet. For a driveway that opens onto an alley, the width of the alley can be used for calculating the length of a driveway.

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(e) *Surfacing.*

- (1) All outdoor off-street parking spaces, driveways and maneuvering areas shall be paved with a compacted base not less than four (4) inches thick, surfaced with asphaltic concrete or Portland cement concrete pavement or other surfacing (e.g.: permeable paving materials, interlocking pavers and ribbon strip driveways) approved by the Town Engineer. The paved area shall be provided with drainage facilities

subject to the approval of the Town Engineer, adequate to dispose of all accumulated surface water. Special surfaces may be allowed by the Development Review Committee if the following conditions apply:

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- (2) Special paving may be required within the dripline of existing trees subject to the recommendation of the Planning Director.

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(g) *Screening and landscaping.* Parking lots and spaces shall be screened and landscaped as follows:

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- (3) All landscaped areas shall be completely enclosed by a four-inch continuous concrete curb. At any point where a curb around a landscaped area serves as a wheel stop, a vehicle overhang allowance of two (2) feet including the width of the curb shall be added to the landscaped area.

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(h) *Curbs, wheel stops and markings.* Curbs, wheel stops and markings for parking lots and spaces shall be provided as follows:

- (1) Except for spaces which serve single- or two-family dwellings, all off-street parking spaces shall have wheel stops. Wheel stops must be continuous curbing and shall not be separate blocks. A continuous concrete curb may be permitted

with breaks in the curb to allow for drainage to meet Best Management Practices methods for National Pollutant Discharge Elimination System (NPDES) requirements.

- (2) Opposing ranks of parking stalls shall be separated by a raised curbed island. Breaks in the curb may be permitted to allow for drainage to meet Best Management Practices methods for NPDES requirements.

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(l) *Determination.* Applications for permits for parking lot improvements shall be determined by the Planning Director. When compliance with State disabled-accessibility statutes and regulations will result in a reduction in the number of spaces remaining in the parking lot below the number required by this chapter, the application shall be determined by the Development Review Committee through the building permit process.

Sec. 29.20.480. Administrative procedure for minor residential projects.

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(2) In addition to the projects identified in subsections 29.20.745(12) and (15), the following projects will be considered under this administrative procedure.

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- (c) Reconstruction to a portion of a single or two-family dwelling or an accessory structure with a nonconforming setback.
- (d) Accessory structures exceeding a combined square footage of 450 square feet.

- (e) Additions to accessory structures resulting in the structures containing a combined square footage more than 450 square feet.
- (f) Request to reduce side and rear yard setback requirements for accessory structures.
- (g) Sport court lighting and/or fencing over six (6) feet high enclosing court game areas.

Sec. 29.20.145. Approval required.

Architecture and site approval is required in all zones for the following:

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- (2) An exterior alteration that changes the architectural style of a single family and two family residence.
- (3) Any exterior alteration or addition to a building excluding:
 - (a) Alterations or additions to a single and two family dwelling that do not require approval by the Planning Commission or Development Review Committee pursuant to the Residential Design Guidelines or the Hillside Development Standards and Guidelines;
 - (b) Minor exterior alterations to commercial and multifamily buildings.

(4) Intensification of land use. For the purposes of this section only, intensification of land use means all changes in use which require more parking and/or results in an increase in peak hour trips for mixed use, multi tenant commercial, industrial or multifamily development projects if the trips exceed the traffic generation factor assigned to the project at the time of approval and/or an increase of five (5) or more peak hour trips;

(5) Residence conversions;

(6) Any development in a floodplain as required by article IX of this chapter;

and as otherwise specified in this article.

Sec. 29.40.070. Projections allowed into yards.

(a) A porte cochere may be permitted over a driveway in a side yard, provided that it is not more than one (1) story high and twenty-four (24) feet long, with supporting columns a minimum of three (3) feet from the side lot line with a maximum eave length of twelve (12) inches, and is entirely open on at least three (3) sides, except for the necessary supporting columns and customary architectural features.

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(d) Open, unenclosed porches or decks, not covered by a roof or canopy, less than one (1) foot above grade, may project into side or rear yards.

(e) Open, unenclosed porches, not covered by a roof or canopy, less than four (4) feet above grade may project into front, side or rear yards or into any court up to six (6) feet; but in no case shall the projection into a side yard be closer than six (6) feet to the property line or into a court exceed a distance of more than twenty (20) percent of the width of such court.

(f) Open, unenclosed balconies, not covered by a roof or canopy may project into a front or rear yard up to six (6) feet.

Sec. 29.50.055. Projections allowed into yards.

(a) A porte cochere may be permitted over a driveway in a side yard, provided that it is not more than one (1) story high and twenty-four (24) feet long, with supporting columns a minimum of three (3) feet from the side lot line with a maximum eave length of twelve (12) inches, and is entirely open on at least three (3) sides, except for the necessary supporting columns and customary architectural features.

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Sec. 29.40.015. Accessory structures.

In residential zones (defined by Section 29.40.010), accessory structures (excluding horse barns and shelters), located on the same site with a permitted use, including private garages and carports, studios for private use, garden structures, greenhouses, hobby shops, recreation rooms and free-standing patio covers are allowed if such accessory structures:

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B. Exceptions.

- (1) In the R-1 zones, required side and rear yards for accessory structures other than second dwelling units, may be reduced to no less than three (3) feet from a property line, if an application is approved through the Administrative Procedure for Minor Residential Projects. A reduction in setbacks will not be allowed in the side yard abutting a street and conversion of accessory structures with reduced setbacks to a second dwelling unit is prohibited.

Criteria to be considered when reviewing accessory structures within reduced setbacks shall include the number and size of structures already within a reduced setback area, visibility, compatibility with other structures in the neighborhood, historic preservation considerations, privacy and compatibility of historic nature of neighborhoods.

- (2) One accessory structure less than 120 square feet, is allowed in the required side

or rear setbacks without any zoning approvals. Any accessory structure in excess of one will be subject to the requirements set forth by Section 29.40.015.

- (3) In the R-1 zones, required side yard setbacks may be reduced to five (5) feet for detached garages less than 450 square feet without obtaining approval through the Administrative Procedure for Minor Residential Projects (Section 29.20.480). A reduction in setbacks in the side yard abutting a street shall be subject to the Administrative Procedure for Minor Residential Projects (Section 29.20.480).

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Sec. 29.20.200 Conditional Use Modification

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DIVISION 3A. WIRELESS TELECOMMUNICATIONS FACILITIES

Sec. 29.20.205. Purpose and intent.

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Sec. 29.10.090. Height restriction, exception.

Towers, spires, elevator and mechanical penthouses, cupolas, wireless telecommunication antennas, similar structures and necessary mechanical appurtenances which are not used for human activity or storage may be higher than the maximum height permitted by the zone. The

use of tower elements or similar structures to provide higher ceiling heights for habitable space shall be deemed as a use intended for human activity and is therefore not exempt from the maximum height restrictions of a zone.

Sec. 29.10.09030. Demolitions.

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(j) *Recycling of Building Materials.* When demolition of a structure is allowed, the Town shall provide the developer of the structure to be demolished with information about the recycling of building materials. Prior to the issuance of the demolition permit, the developer shall provide the Planning Director with written notice of the company that will be recycling the building materials. All wood, metal, glass, and aluminum materials generated from the demolished structure shall be deposited to a company which will recycle the materials. Receipts from the company(s) accepting these materials, noting the type and weight of materials, shall be submitted to the Town prior to the Town's demolition inspection. No recycling of materials shall occur until a demolition permit has been approved by the Building Department.

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Sec. 29.20.260. Notice of appeal.

The appellant must file a written notice of appeal with the Planning Director not more than ten (10) days after the date of mailing of written notification of the Planning Director's

decision and not more than ten (10) days after the decision is rendered by the Development Review Committee or the Historic Preservation Committee. The notice shall state clearly the reasons why the appeal ought to be granted. Once a written notice of appeal has been filed, it may be withdrawn by the appellant at anytime prior to the distribution of public hearing notices, but not thereafter.

Sec. 29.20.275. Appeals from decisions by the Planning Commission.

Any interested person may appeal to the Council from any decision of the Planning Commission. The appellant must file a written notice of appeal in duplicate with the Clerk not more than ten (10) days after the decision is rendered. The notice shall state clearly the reasons why the appeal ought to be granted. The Council shall only hear the appeal if the notice is filed and all required fees are paid within the ten (10) day appeal period. Once a notice of appeal has been filed, it may be withdrawn by the appellant prior to the distribution of public hearing notices, but not thereafter.

Sec. 29.20.480. Administrative procedure for minor residential projects.

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- (c) If the Planning Director intends to approve the application, a "Notice of Pending Approval" will be mailed to neighboring residents and property owners including any applicable conditions, exactions or dedications as required. The notice will advise the residents and property owners of the applicant's plans, and that the application will

be approved unless there is an objection. The residents and property owners have ten days from the date of the "Notice of Pending Approval" in which to review the application and to notify the Planning Director in writing of any concerns or problems.

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- (e) If an objection to the project is filed in a timely manner and the differences cannot be resolved at the staff level, the application is scheduled before the Planning Commission on the next available agenda for consideration at the applicant's cost. All property owners and residents notified originally shall be notified of the Planning Commission meeting.

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Section 29.20.185. Table of conditional uses.

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(1) Commercial

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- q. New office building approved or constructed after May 1, 2006.

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Note: Put an X under C-1, C-2, and CH in the Conditional Use Permit Table for item q listed above.

Sec. 29.20.190. Findings and decision.

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(c) The deciding body, on the basis of the evidence submitted at the hearing, may deny a conditional use permit for a new office building if any of the following findings are made:

(1) The proposed use of the property is not in harmony with specific provisions or objectives of the general plan and the purposes of this chapter;

(2) The proposed use will detract from the existing balance and diversity of businesses in the commercial district in which the use is proposed to be located;

(3) The proposed use would create an over-concentration of similar types of businesses, or;

(4) The proposed use will detract from the existing land use mix and high urban design standards including uses that promote continuous pedestrian circulation and economic vitality.

Sec. 29.10.020. Definitions.

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Attic is a non-habitable space (that may or may not be used for storage) with a maximum height of seven feet six inches as measured from the upper surface of the attic floor to the underside of the roof above. For the purposes of this definition, unfinished attic spaces are

considered to have floor surfaces. Once an attic space exceeds seven feet six inches in height, all areas down to five feet will be counted toward the floor area ratio.

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Basement is an enclosed area that extends more than four feet above the existing or finished grade in any location. Basements, as defined here, shall be included in the floor area ratio calculation. For purposes of this definition, whichever grade (existing or proposed) results in the lowest building profile of a building shall be used.

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Cellar is an enclosed area that does not extend more than four feet above the existing or finished grade in any location. Cellars, as defined here, shall not be included in the floor area ratio calculation for residential developments. That area of a cellar where the building height exceeds four feet above existing or finished grade shall not be included in this definition and shall be included in the floor area ratio calculation. For purposes of this definition whichever grade (existing or proposed) results in the lowest building profile of a building shall be used.

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Sec. 29.10.145. Requirements generally.

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(h) *Permit required for parking lot improvements.* No person shall erect, construct, relocate, enlarge, alter, repair, move, improve, remove, or convert any parking lot without a permit except:

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Sec. 29.10.215. Modification of a nonconforming use.

After March 22, 1986, for hotels and motels located in residential zones that were converted to multiple-family dwelling units, and after May 6, 1981, for all others, a use which is nonconforming shall not be modified without obtaining a conditional use permit therefor. For purposes of this section, a modification shall be defined as follows:

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Sec. 29.10.245. Expansion of nonconforming building.

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- (3) Industrial buildings in an office or commercial zone as defined in Section 29.60.010.

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Sec. 29.20.140. Architecture and site approval, purpose and intent.

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(b) The Town contains small businesses, professional offices and residences. Municipal revenues derive principally from property tax and taxes derived from retail trade. Local employment depends to an unusual extent on the success of small business ventures, which in turn depend on trade in specialty items sold to visitors. Much of the business and residential area of the Town is composed of a mixture of old and new buildings, and the condition and style of each reflects on the other. For example, a new building loses value and

its occupant's trade is diminished if an old building nearby is permitted to decay, and old buildings are permitted to decay when the designs of new buildings nearby do not compliment them. The juxtaposition of old and new buildings in the Town is extensive.

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Sec. 29.20.185. Table of conditional uses.

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TABLE OF CONDITIONAL USES

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(3) Community services

- a. Public building; police, fire, community center, library, art gallery, museum
- b. Club, lodge, hall, fraternal organization
- c. Church, monastery, convent, and other institutions for religious observance
- d. Mortuary, columbarium, mausoleum
- e. Public transportation and parking facilities

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(6) Transmission Facilities/Utilities

- a. Public utility service yard, station, transmission lines, storage tank, drainage or communication facilities
- b. Antenna facilities operated by a public or private utility for transmitting and receiving cellular telephone and other wireless communications
- c. Radio and/or broadcast studios

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Sec. 29.20.197. Review of application for a conditional use permit or modification to a conditional use permit to sell beer and wine at a service station.

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- (1) The number of locations of retail on-sale and off-sale licenses to sell alcohol located within a reasonable distance, generally one mile, of the proposed location;

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Sec. 29.40.615. Conditional uses.

In addition to the activities authorized by section 29.10.610, the activities listed in the table in section 29.20.185 are allowed if a conditional use permit is issued.

Sec. 29.50.032. Promotional events for auto dealers.

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- a. *For small promotions:*

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4. The permit may allow a waiver of the provisions of section 29.10.115(1) regarding flags, pennants or balloons provided no helium is used, no metallic balloons are used, and that the applicant can demonstrate that adequate precautions will be taken to protect the public health and safety.

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- b. *For large promotions:*

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4. The permit may allow a waiver of the provisions of section 29.10.115(1) regarding flags, pennants or balloons provided that no helium is used, no metallic balloons are used, and the applicant can demonstrate that adequate precautions will be taken to protect the public health and safety.

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Sec. 29.90.040. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated July, 1978 and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated January 17, 1979, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this article.

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Sec. 29.90.055. Interpretation.

In the interpretation and application of this article, all provisions shall be:

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- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION II

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on April 17, 2006, and adopted by the following vote as an ordinance of the Town of Los Gatos at a meeting of the Town Council of the Town of Los Gatos on May 1, 2006. This ordinance becomes effective 30 days after it is adopted.

COUNCIL MEMBERS:

AYES: Steve Glickman, Joe Pirzynski, Mike Wasserman,

NAYS: None

ABSENT: Barbara Spector

ABSTAIN: None

SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:



CLERK ADMINISTRATOR
TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA